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FISCAL IMPACT STATEMENT

LS 6522

BILL NUMBER: HB 1461

NOTE PREPARED: Dec 26, 2012

BILL AMENDED:

SUBJECT: Health Care Professionals Conscience Clause.

FIRST AUTHOR: Rep. Davisson

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill applies to physicians, nurses, pharmacists and persons enrolled in an educational program and studying to become a physician, nurse, or pharmacist.

The bill provides that a health care professional may not be required to dispense a drug or medical device if the health care professional believes the drug or medical device would be used to: (a) cause an abortion; (b) destroy an unborn child; or (c) cause the death of a person by means of assisted suicide, euthanasia, or mercy killing.

It specifies that a health care professional's refusal to dispense a drug or medical device under these circumstances may not be the basis for: (a) a claim for damages against the health care professional, the health care professional's employer, or the facility where the health care professional is employed; or (b) disciplinary, recriminatory, or discriminatory action against the health care professional.

The bill provides that an employer who knowingly or intentionally takes disciplinary, recriminatory, or discriminatory action against a health care professional who refuses to dispense a drug or medical device under these circumstances commits health care professional discrimination, a Class A misdemeanor. It makes a second or subsequent offense a Class D felony.

It also authorizes the health care professional's licensing board to assess additional fines against the employer.

Effective Date: July 1, 2013.

Summary of NET State Impact: The bill may increase fine revenue received or costs of incarceration based on the number of offenders convicted of health care professional discrimination, a Class A misdemeanor. Local costs for incarceration could increase if offenders are sentenced to jail terms for a first offense. However, state prison costs could increase if offenders are sentenced for second or subsequent offenses.

Fine revenues for both felonies and misdemeanors are deposited in the Common School Fund, and the additional revenue from fines imposed by the health care professional's licensing board will be deposited in the state General Fund. The fiscal impact is likely to be small.

Explanation of State Expenditures: *Impact on Medical Licensing Board, Indiana State Board of Nursing, and Indiana Board of Pharmacy:* This bill will increase the workload of these three boards to hold hearings to the extent employers are determined to have knowingly or intentionally taken disciplinary action against doctors, nurses, or pharmacists who refused to dispense specified drugs or medical devices.

Second or Subsequent Offense Penalty: The bill provides that a second or subsequent offense of an employer who has knowingly or intentionally taken disciplinary action against doctors, nurses, or pharmacists who refused to dispense specified drugs or medical devices is a Class D felony.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Additional Fines Imposed:* Under the bill, the Indiana Medical Licensing Board, Indiana State Board of Nursing, and Indiana Board of Pharmacy may impose an additional fine of between \$5,000 and \$10,000 on offenders convicted of health care professional discrimination. Administrative fine revenue is deposited in the state General Fund unless otherwise specified in the statute.

Penalty Provision: If additional court cases occur and fines are collected, revenue to the Common School Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail. Additionally, if more defendants are detained in county jails prior to their court hearings for second or subsequent offenses of the bill, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Indiana Professional Licensing Agency, Indiana Medical Licensing Board, Indiana State Board of Nursing, and Indiana Board of Pharmacy; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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